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FISCAL IMPACT STATEMENT

LS 6310

BILL NUMBER: HB 1224

NOTE PREPARED: Jan 28, 2008

BILL AMENDED: Jan 28, 2008

SUBJECT: Transfer Fees.

FIRST AUTHOR: Rep. Van Haaften

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) *Transfer Fee Rules* - The bill voids certain rules adopted by the Indiana Horse Racing Commission (IHRC) and the Indiana Gaming Commission (IGC) concerning the transfer of ownership interests in pari-mutuel horse racing meeting permits and riverboat owner's licenses. The bill prohibits the IHRC and the IGC from: (1) imposing fees that are not authorized by statute upon the parties to a transfer of ownership interests; and (2) making the approval of a proposed transfer of ownership interests contingent upon the payment of any amount not authorized by statute. It codifies a noncode provision enacted in 2005 concerning transfer fees and repeals the 2005 noncode provision. It also requires the Treasurer of State to refund any amount paid under the authority of a rule voided by the bill.

Trustees for Casinos - The bill requires licensed owners, operating agents, and applicants for owner's licenses and operating agent contracts to submit a proposed power of attorney to the Gaming Commission. It provides that the power of attorney must designate a trustee to operate the principal's riverboat on behalf of the principal if certain events occur. It also provides that the Gaming Commission must approve the trustee and the powers delegated to the trustee in the power of attorney. The bill specifies the conditions under which the trustee may conduct gambling operations on a riverboat.

(The introduced version of this bill was prepared by the Administrative Rules Oversight Committee.)

Effective Date: January 1, 2008 (retroactive); upon passage; July 1, 2008.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Transfer Fee Rules* -The bill voids rules adopted by the Indiana

Gaming Commission and the Indiana Horse Racing Commission that provide for payments to be made to the state by persons transferring an ownership interest in a casino license, a license to conduct slot machine gambling at a horse racetrack, a supplier's license, or parimutuel racing permit. The bill also requires the State Treasurer to refund any payment made to the state under these rules.

The refund requirement will result in a \$9 M revenue loss, presumably in FY 2008, from a payment made in August 2007 under the IHRC rules in connection with the transfer of an ownership interest in Indiana Downs. Any future fiscal implications of the bill are indeterminable because: (1) the frequency of future ownership transfers is unpredictable; (2) the rules are unclear as to the extent that payments will be required in connection with future ownership transfers; and (3) the rules are unclear as to the magnitude of any required payments.

Background Information - The bill does the following:

- (1) Voids rules adopted by the IHRC and the IGC that make approval of an ownership transfer involving a parimutuel racing permit or casino license subject to: (a) consideration by the IHRC or IGC of the economic benefit derived by the person transferring the permit or license; and (b) the state receiving either voluntary or involuntary payments from the person transferring the permit or license.
- (2) Voids a rule adopted by the IGC on April 21, 2005, concerning the imposition of a transfer fee on the transfer of a riverboat casino license or operating permit.
- (3) Prohibits the IHRC or IGC from imposing ownership transfer fees not authorized by the Riverboat Gaming Law or the Parimutuel Wagering Law.
- (4) Requires the Treasurer of State to refund any amount paid to the state under the authority of a rule voided by the bill.

The IHRC rule (amending 71 IAC 11-1-13(d)) effective June 8, 2007, amended the rules relating to transfers of parimutuel racing permits to stipulate that “[i]n making a determination whether to authorize and approve either a proposed nominal or substantial change in ownership, the [IHRC] will consider the extent to which the state would share in any monetary payment to or economic benefit realized by the person divesting the ownership interest.” Only one payment under this rule has been made to date. LHT Capital, LLC paid \$9 M to the IHRC in August 2007 to obtain approval of its transfer of a 34.34% share of Indiana Downs racetrack to Oliver Racing, LLC.

The IGC emergency rules (amending 68 IAC 5-1-2 and 68 IAC 5-2-2) amended the rules relating to transfers of riverboat casino licenses, licenses to conduct slot machine gaming at horse racetracks, and supplier's licenses to stipulate that “[i]n determining whether to approve a transfer of an ownership interest under this rule, the commission will consider the extent by which the state would share in any monetary payment to or economic benefit realized by the person divesting the ownership interest.” The emergency rules were first effective on June 13, 2007, and remain emergency rules having been adopted again effective September 13, 2007, and December 7, 2007. The current emergency rules expire on March 6, 2007. Through the end of 2007, no payments had been made under this rule.

Trustees for Casinos - The bill requires riverboat casino owners, riverboat casino operating agents, and applicants to become owners or operating agents to submit a power of attorney to the IGC and designate a trustee to operate the casino and casino amenities if the owner's or operating agent's license is revoked or

not renewed, or a proposed transferee is not approved by the IGC and the transferor is unable to operate the casino. The bill provides that the IGC must adopt a resolution to allow a trustee to operate a casino. It also allows 180 days from the time of the resolution for the owner to sell the casino and amenities. If the casino is not sold in the 180-day time period, the trustee is allowed to take necessary action to sell the casino.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Horse Racing Commission; Indiana Gaming Commission; Treasurer of State.

Local Agencies Affected:

Information Sources:

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